

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

UNITED STATES OF AMERICA,

Plaintiff(s),

CASE NO.:2:07-CR-20008FL

vs.

HON. PAUL V. GADOLA
MAG. JUDGE WALLACE CAPEL

ARCHIE POWELL, III,

Defendant(s),

_____/

ORDER DENYING DEFENDANT'S
MOTION FOR DETENTION HEARING

This matter came before the Court for hearing on the Defendant's Motion and Brief For Detention Hearing, filed on January 30, 2007, (D/E #17).

The Defendant in his motion states that there are conditions or a combination of conditions that will assure the appearance of the Defendant before the Court and the safety of the community. The Defendant further indicates that he is agreeable to being placed on a curfew and in third-party custody. He would also agree to a tether and house arrest in this matter.

The Government is opposed to the Defendant's request for release on the bases that the Defendant has three previous felony drug convictions, the nature of the offense which the Defendant is charged, the weight of the case against him, and the lengthy term of incarceration that he faces in this matter.

Having reviewed the motion and response in this matter, and having heard oral argument on this matter, the Defendant's motion for detention hearing shall be **DENIED** for the following reasons.

In making a determination whether an individual should be released on bond, the Court relies upon the statutory authority under 18 U.S.C. § 3142. Under the statute the Court is required to release an individual on bond subject to a finding that there are conditions or a combination of conditions which will assure the Defendant's appearance in Court and the safety of the community.

Additionally, the Court is to determine the nature and circumstances of the offense charged, and whether the offense is a crime of violence or whether the offense is one listed in § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed or involves a narcotic drug. The Court must also determine the weight of the evidence against the Defendant as well as the history and character of the Defendant and whether at the time of the offense the Defendant was on probation or parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law.

The Defendant is currently charged in a two count Indictment alleging violations of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)(iii) - Conspiracy to Distribute Cocaine, and 21 U.S.C. §§ 841 (a)(1) and 841(b)(1)(B)(iii) - Distribution of Cocaine. The Defendant is facing a term of life imprisonment on Count I and a term of imprisonment of at least 10 years and up to life on Count II.

The record in this matter reflects that the Defendant has violated the terms of his state court probation on three different occasions. Further, the record indicates that the Defendant has a lengthy criminal record dating back to 1991. It further appears that the instant offense was committed while the Defendant was on probation.

Accordingly, I find that based upon nature of the charges against this Defendant, coupled with his previous criminal record, and his history of failing to comply with court orders, the Defendant has not rebutted the presumption that there are no conditions or combination of

conditions to assure his appearance before the court or the safety of the community.

IT IS HEREBY ORDERED that the Defendant's motion is hereby **DENIED**. The order of detention previously entered shall remain in effect. The Defendant is hereby remanded to the custody of the United States Marshal.

IT IS SO ORDERED.

The parties are hereby informed that any objections to this order must be filed with the district court within ten days after service, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: February 28, 2007

s/ Steven D. Pepe
Steven D. Pepe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on **February 28, 2007**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Mark C. Jones, AUSA, David S. Grant, Esq., and I hereby certify that I have hand delivered/ mailed by United States Postal Service the paper to the following non-ECF participants: United States Marshal, 600 Church St., Flint, MI 48502, Pretrial Services Officer, 600 Church St., Flint, MI 48502.

s/ James P. Peltier
James P. Peltier
Courtroom Deputy Clerk
U.S. District Court
600 Church St.
Flint, MI 48502
810-341-7850
pete__peltier@mied.uscourts.gov

